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HB 531

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House Local Government Committee
Montana State Legislature

February 21, 2013

Re: HB 531

Madame Chair and members of the Committee:

My name is Robert Horne, and I am a planning consultant based in Whitefish. I am presenting oral and written testimony today in support of HB 531. I support this bill not because I expect to profit from its enactment---our small planning consulting firm is quite busy, thank you---but because I want to solve a problem. Actually, I want to solve a couple of problems.

As you may know, following the 2011 session, an interim committee worked on the issue of subdivisions created by the rent or lease of a building or parts of a building (SLRs). However, the committee was not successful in their efforts, and no legislation was forthcoming. But, I saw some of the things they were working on, and in my assessment, the interim committee overlooked the simple, the obvious, and the most effective way to deal with SLRs.

HB 531, sponsored by Rep. Ed Lieser of Whitefish, addresses SLRs by utilizing the regulations most Montana cities and counties already have on the books. The bill takes strategic advantage of the AG's 2012 opinion by keeping SLRs in the Montana Subdivision and Platting Act. This allows rural counties, especially those being impacted by energy development, to regulate SLR's as subdivisions, using the same subdivision regulations that have been in effect since the current Montana model subdivision code was developed in 2005. All of the submittal requirements, hearing procedures, and review processes are already in place, thereby providing local governments with the opportunity to address impacts to roads, law enforcement, fire prevention/suppression, and other local facilities and services. You may have heard some people characterize HB 531 as a "city bill", but nothing could be further from the truth---it helps both cities and counties, and allows them to deal with SLRs as they see fit.

For cities, or for counties or portions of counties that have adopted zoning or permit systems, and if those regulations set standards for SLRs, HB 531 allows them to exempt SLRs from local subdivision requirements. This is especially important for communities that are promoting accessory residential units and multi-family housing as an infill, affordable housing, or growth management strategy. When SLRs are regulated through zoning, the housing developer is not

burdened by the time and expense of filing a plat. And if a property owner who simply wants to construct a garage apartment to supplement his income and provide a needed housing alternative is told that he first must file a plat for the ARU, the project probably will not happen.

The second part of this bill removes the platting exemption for townhomes. This exemption was added just last session, and it was probably a case of mistaken identity. Condominiums can be exempted from platting because no lots are created. However, the definition of townhome as set forth in Sec. 70-23-102, MCA reads:

"Townhome" or "townhouse" means property that is owned subject to an arrangement under which persons own their own units and **hold separate title to the land beneath their units**, but under which they may jointly own the common areas and facilities. (Emphasis added.)

Put very simply, a townhouse lot (the land beneath the unit, often called a "footprint") cannot be legally or physically created without a plat of some kind. The current exemption only confuses a dwelling unit type with an ownership configuration, and is not really an exemption at all.

Thank you for the opportunity to provide testimony on HB 531. As the most sensible way to deal with SLRs in both cities and counties, I hope that you will support this much needed legislation and pass it on to the House floor.

Respectfully submitted,

Robert Horne, Jr., AICP